



Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

10013654-1

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on

11/13/06

Signature

Typed or printed name

Desiree Reardon

Application Number

09/853,961

Filed

05/10/01

First Named Inventor

Dirk M. BEYER

Art Unit

3622

Examiner

Champagne, D.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

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applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

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\*Total of \_\_\_\_\_ forms are submitted.

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Remarks Accompanying Pre-Appeal Brief Request For Review

In response to the final Office Action dated August 11, 2006, Applicants respectfully request a review of the final rejection in the above-identified application. Applicant respectfully submits that the Examiner's rejection of Claims 1 and 20 under 35 U.S.C. §102 (b) as being anticipated by Cannon (U.S. Patent No. 6,286,005) is improper as an essential element needed for a proper prima facie rejections is missing (e.g., the teaching of all of the recited claim limitations).

Rejection under 35 U.S.C. §102 (e)

Rejection of Claims 1 and 20 under 35 U.S.C. §102 (e) as being anticipated by Cannon (6,286,005)

Claims 1 and 20 set forth a method of task selection and a system for implementing the same, comprising:

determining a specified distribution of a plurality of tasks;  
assuming a first event in a sequence of events occurs, each event in said sequence of events triggering execution of one of said plurality of tasks;

determining a plurality of hypothetical distributions of said plurality of tasks for each task hypothetically selected for execution from said plurality of tasks;

selecting a first task for execution from said plurality of tasks, which when selected provides a corresponding hypothetical distribution of said plurality of tasks that is closest to said specified distribution of said plurality of tasks for implementation of said specified distribution.

Embodiments of the present invention pertain to methods of deterministic sampling with a specific distribution and a system for implementing the same. Specifically, in embodiments of the present invention a task, or advertising promotion, is selected that gives a distribution of a plurality of tasks, or advertising promotions, that is closest to a specified distribution of the plurality of tasks, or advertising promotions. That is, embodiments of the present invention are implemented to achieve the specific distribution of the plurality of tasks, or advertising promotions.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim (Lindemann Maschinentabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 10013654-1  
Examiner: Champagne, D.

1984). Because, at a minimum, the Cannon reference fails to teach the determination of a plurality of tasks, and the execution of the plurality of tasks in response to events, the Cannon reference fails to disclose each and every element of Claims 1 and 20, as arranged in the claims, and as such, the rejection under 35 U.S.C. §102(e) is improper and should be reversed. Therefore Claims 1 and 20 are in a position for allowance.

Specifically, independent Claims 1 and 20 each disclose that a specified distribution of a plurality of tasks is determined. That is, for a plurality of tasks (e.g., L, M, N, and O), a distribution of the plurality of tasks is determined. For example, if the plurality of tasks are advertisements, the specified distribution describes the overall presentation of the advertisements to a specific group of customers.

On the other hand, the Cannon reference does not disclose a specified distribution of a plurality of tasks. Instead, the Cannon reference teaches a method for selecting an additional spot for inclusion within an advertising schedule. Specifically, the Cannon reference teaches the selection of one of a plurality of possible advertising time spot. In the example provided in the Cannon reference, a current advertising plan includes three time spots for presenting a single advertisement: spot A, spot B, and spot C. The Cannon reference selects from spots D, E, F, and G for inclusion within the advertising plan. (See col. 39, lines 2-8 and col. 41, lines 54-58 of the Cannon reference).

Further, independent Claims 1 and 20 each disclose that an event in a sequence of events is assumed to occur in order to determine which of the tasks is selected. Each event triggers execution of one of the plurality of tasks. The events as disclosed in the present embodiments describe single actions that trigger execution of one of the plurality of tasks (e.g., L, M, N, or O). For example, when a customer visits a web site as an event, the present embodiments of independent Claims 1 and 20 are able to determine which task (e.g., L, M, N, or O), or advertisement, is selected to present to the customer.

On the other hand, the Cannon reference does not disclose the assumption of a single event in a sequence of events, wherein each event in the sequence triggers execution of one of the plurality of tasks, as in the present invention. Instead, the Cannon reference utilizes a history of viewing data for a sample group to determine selection of one of the possible plurality of time spots (e.g., spots D, E, F, or G) for inclusion within the advertising schedule. Once one of the time spots (e.g., spots D, E, F, or G) is selected, the remaining possible time slots are never selected. That is, the Cannon

reference teaches the selection of one spot in a plurality of *possible* time spots. As such, the Cannon reference teaches a history of viewing events that is used to select from one of a plurality of possible time spots (e.g., spots D, E, F, and G), but does not teach the assumption of an event in a sequence of events that triggers execution of one of a plurality of tasks, as is disclosed in independent Claims 1 and 20.

Moreover, independent Claims 1 and 20 each disclose that a plurality of hypothetical distributions of the plurality of tasks is determined for each task that is hypothetically selected. That is, for each task L, M, N, or O that is selected in response to an event, a new and hypothetical distribution of the singular and unvarying plurality of tasks (L, M, N, or O) is determined.

On the other hand, the Cannon reference does not calculate a hypothetical distribution of the execution of the plurality of tasks. The Cannon reference teaches a scoring for each alternative spot (spots D, E, F, or G) using five indices that are considered in the advertising optimization process. However, embodiments of the present invention are distinguishable from the Cannon reference in that the scoring is determined from a singular plurality of tasks, and not from a multiple plurality of possible tasks. Specifically, embodiments of the present invention determine a hypothetical distribution from an unvarying, singular plurality of tasks (e.g., L, M, N, and O), whereas, the Cannon reference determines scores for multiple plurality of possible tasks. That is, the Cannon reference provides a score for the following four advertising schedules: spots A, B, C, and D; spots A, B, C, and E; spots A, B, C, and F; and spots A, B, C, and G. As such, the Cannon reference does not teach the determination of a plurality of hypothetical distributions of the singular and unvarying plurality of tasks, as is recited in independent Claims 1 and 20 of the present invention.

In addition, independent Claims 1 and 20 each disclose that a task from the plurality of tasks (e.g., L, M, N, and O) is selected for execution in response to an event. The task that is selected provides a corresponding hypothetical distribution of the singular and unvarying plurality of tasks that is closest to the previously determined specified distribution of the plurality of tasks. That is, a task is selected that would provide the closest distribution of the plurality of tasks, should that task be selected, to the specified distribution.

On the other hand, the Cannon reference does not disclose the selection of a task from a singular and unvarying plurality of tasks used to determine a specified distribution, as is recited in independent Claims 1 and 20. Instead, the Cannon reference selects a time spot from a plurality of possible time spots (e.g., spots D, E, F, and G). That is, the Cannon reference selects one combination of time spots from multiple combinations of time spots (e.g., combination of spots A, B, C, and D; combination of spots A, B, C, and E; combination of spots A, B, C, and F; and combination of spots A, B, C, and G). The selected combination provides the highest score that more efficiently matches the predetermined media objectives. (See col. 41, lines 54-63 of the Cannon reference).

As such, the Cannon reference selects a spot from possible time spots (e.g., spots D, E, F, or G) for inclusion into an existing advertising schedule (spots A, B, and C). Specifically, the Cannon reference selects one of a plurality of possible combinations of time spots. That is, the Cannon reference selects from one of the combination of spots A, B, C, and D; combination of spots A, B, C, and E; combination of spots A, B, C, and F; and combination of spots A, B, C, and G.

In summary, the Cannon reference cannot possibly teach the embodiments of the present invention since the Cannon reference selects a task from one of a plurality of possible spots (e.g., spots (D, E, F, and G) for inclusion within an existing advertising schedule (spots A, B, and C). Upon selection of one of the plurality of possible spots (e.g., spots D, E, F, and G), the non-selected spots are no longer considered for execution. That is, the Cannon reference selects one of a possible combination of spots (e.g., combination of spots A, B, C, and D; combination of spots A, B, C, and E; combination of spots A, B, C, and F; and combination of spots A, B, C, and G).

Embodiments of the present invention, on the other hand, provide for the selection of a task from a singular and unvarying plurality of tasks (e.g., L, M, N, and O). That is, embodiments of the present invention are used to select a task for execution from a plurality of specified tasks in response to an event. Once selection of one of the plurality of tasks is made, the non-selected spots can again be considered for execution upon the execution of a later event. The task selection provides a corresponding hypothetical distribution of the singular and unvarying plurality of tasks that is closest to a specified distribution.

For these reasons, Applicants respectfully state that the Cannon reference does not anticipate the features as claimed in independent Claims 1 and 20 and as such the rejection under 35 U.S.C. §102 (e) is improper and should be reversed. In addition, Applicants respectfully submit that the Cannon reference does not anticipate or render obvious the embodiments of the present invention as are recited in Claims 2-10 which depend from independent Claim 1, and Claims 21-30 which depend from independent Claim 20, and that these claims are in condition for allowance as being dependent on an allowable base claim.

Applicants respectfully submit that the Examiner's rejections of the Claims are improper as key limitations needed for proper prima facie rejections of Applicants' Claims are not met by the cited reference as outlined above.